

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DARIN HOFFMAN,	:
Plaintiff,	:
v.	: Civil Action No. 05-410J
PENNSYLVANIA DEPARTMENT OF	:
CORRECTIONS, <u>et al.</u> ,	:
Defendants	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

On August 21, 2006, the Magistrate Judge filed a Report and Recommendation, docket no. 6, recommending pursuant to 28 U.S.C. § 1915A that the complaint be dismissed in part for failure to state a claim, and that one claim be permitted to proceed.

The plaintiff was notified that pursuant to 28 U.S.C. § 636(b)(1), he had ten days to serve and file written objections to the Report and Recommendation. Plaintiff filed timely objections, docket no. 7, which I have reviewed de novo and reject as meritless.

After de novo review of the record of this matter together with the Report and Recommendation, and the objections thereto, the following order is entered:

AND NOW, this 28th day of September, 2006, it is

ORDERED that the plaintiff's complaint, with the exception of the claim against defendant Diggs, is dismissed for failure to state a claim. The Report and Recommendation is adopted as the opinion of the Court.

It is further ordered that, in accordance with 28 U.S.C. § 1915(b)(1) and (2), the inmate account officer at any institution where plaintiff may be incarcerated shall deduct from plaintiff's inmate account twenty percent (20%) of each item of income on the date received, accrue these items and forward one payment per month of the amount accrued to the Clerk, whenever the amount in plaintiff's account exceeds \$10.00, until the entire filing fee of \$250.00 has been paid.

BY THE COURT:



KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to:

Darin Hoffman DV-0705
S.C.I. Somerset
1600 Walters Mill Road
Somerset, PA 15510

Inmate Account Officer
S.C.I. Somerset
1600 Walters Mill Road
Somerset, PA 15510